

REMARKS

The Office Action of April 26, 2006 has been studied in detail along with the references applied and cited by the Examiner. In response, selected claims have been amended (claims 1, 3, 4, 6, and 7), other claims canceled (claims 2 and 5), and new claims added (claims 10-17). The pending claims should be read in conjunction with the accompanying arguments in support of patentability. Further examination and reconsideration of the application as amended are respectfully requested.

THE OFFICE ACTION

The drawing sheets filed on March 15, 2006 were accepted by the Examiner.

Claims 1, 2, 5, and 7 were rejected under 35 USC 102(b) as being anticipated by Cockman (US 4,923,165).

Claims 3 and 4 were rejected under 35 USC 102(b) as being anticipated by or, in the alternative, under 35 USC 103(a) as obvious over Cockman.

Claims 6 and 8 were rejected under 35 USC 103(a) as being unpatentable over Cockman in view of Beard (US 4,645,168).

Claim 9 was rejected under 35 USC 103(a) as being unpatentable over Cockman in view of Beard and further in view of Lloyd et al. (US 5,129,613).

REJECTIONS UNDER 35 USC 102(b)

The Examiner rejected claims 1, 2, 5, and 7 under 35 USC 102(b) as being anticipated by Cockman. It was stated in the Office Action that Cockman discloses a ground anchor assembly (A) for a guide post (18); comprising: a first and second part, the first part (D) having a head portion (16, 50) adapted to be pounded into the ground; as well as a tail portion (10) being insertable into the ground. Thereafter, the Examiner describes Cockman as having a first part (D) further comprising a tail portion (14) having a substantially V-shaped configuration and including a first side wall and a second side wall.

Applicant has amended independent claim 1 and it now recites ". . . the tail portion including a longitudinal axis and being insertable into the ground wherein the tail portion is V shaped or L-shaped in configuration and comprises a first side wall and a second side wall

extending at an angle in relation to the first side wall and wherein the first and second side walls extend along the longitudinal axis to enable the tail portion to be pounded into the ground, . . .”.

Cockman describes a post anchor having a shank (10) and a boring end (14). Neither the shank (10) nor the boring end (14) anticipate a tail portion including a longitudinal axis wherein the tail portion is V shaped or L shaped having a first side wall and a second side wall extending at an angle in relation to the first side wall and wherein the first and second side walls extend along the longitudinal axis to enable the tail portion to be pounded into the ground. For at least the reasons stated above, claim 1 is not anticipated nor made obvious by Cockman. Applicant has cancelled claims 2 and 5 in the present amendment.

Independent claim 7 has been amended to recite “. . . the anchor assembly comprising a first part and a second part, wherein the first part is substantially V shaped or L shaped in configuration and comprises a first side wall and a second side wall extending substantially along a longitudinal axis of the first part . . .”. Additionally, claim 7 recites “. . . the tongue member being receivable in the slot to enable the second part to be quickly attached to and detached from the first part with a firm blow kick”. For at least the reasons stated above, independent claim 7 is not anticipated nor made obvious by Cockman.

Dependent claims 3 and 4 are dependent upon amended claim 1 and include further limitations that distinguish these claims from Cockman. Claim 3 recites the tail portion having a length of between 10-50 centimeters. Claim 4 recites the head portion as being part circular in configuration. Dependent claims 3 and 4, in conjunction with the amendments to claim 1, distinguish from the cited reference. Thus, claims 3 and 4 are not anticipated nor made obvious by Cockman.

REJECTIONS UNDER 35 USC 103(a)

The Examiner rejected claims 6 and 8 under 35 USC 103(a) as being unpatentable over Cockman in view of Beard (US 4,645,168).

Dependent claims 6 and 8 provide further limitations to independent claims 1 and 7, respectfully, and further distinguish from the cited references. The arguments discussed above regarding Cockman are equally appropriate here. Furthermore, combining Cockman with Beard, though not suggested, would not result in applicant's claimed device. Beard provides two inserts (19) and (21) to which an adhesive can be applied when attaching the base (10) to a road surface

(column 3, lines 3-5). As such, Beard pertains to “markers and, more particularly, to the base plate on which upright markers are mounted for placement along the roadside”. Thus, Beard relies on a mounting base adhesively attached to the road surface. Beard teaches away from Cockman by describing a base adhesively mounted to a road surface without any type of “ground” anchor. Neither Beard nor Cockman, either singly or in combination, disclose a first part or tail portion pounded into the ground having a V-shaped or L shaped configuration and comprising a first side wall and a second side wall extending at an angle in relation to the first side wall and wherein the first and second side walls extend along the longitudinal axis.

Consequently, the limitations of claims 1 and 7, and claims 6 and 8 dependent therefrom, are neither taught, suggested nor made obvious by Cockman or Beard, either singly or in combination.

The Examiner next rejected claim 9 under 35 USC 103(a) as being unpatentable over Cockman in view of Beard and further in view of Lloyd et al. (US 5,129,613).

Claim 9 is dependent upon claim 7. As discussed above, Beard teaches away from Cockman. Combining Cockman, Beard and Lloyd et al., though not suggested, would not result in a first part substantially V shaped or L shaped in configuration and comprising a first side wall and a second side wall extending substantially along a longitudinal axis of the first part, and wherein a second part can be quickly attached to and detached from the first part with a firm kick (refer to claim 7).

Newly added claims 10-12 are dependent upon independent claim 7 and recite limitations previously presented and examined (see for example claims 3,4, and 6).

Newly added independent claim 13, and claims 14-17 dependent therefrom, recite elements previously presented and thus do not raise new issues requiring an additional search.

Consequently, independent claims 1, 7, and 13, and all claims dependent therefrom, are not taught nor made obvious by Cockman, Beard, or Lloyd, either singly or in combination. Thus, all of the pending claims are patentable over the applied combination of references, as well as the remainder of the cited art.

CONCLUSION

The present amendment merely cancels claims, adopts the Examiner's suggestions, removes issues for appeal, or in some other way requires only a cursory review by the Examiner. The claims as amended do not raise any issues with regard to new matter, do not present new issues requiring further search or consideration, and/or place the application in better condition for appeal. Accordingly, the amendment should be entered and the application forwarded for issuance. If a telephone call would clear up any minor matter, the Examiner is invited to call the undersigned.

All formal and informal matters having been addressed, this application is in condition for allowance. Early notice to that effect is solicited.

Respectfully submitted,

FAY, SHARPE, FAGAN,
MINNICH & MCKEE, LLP

Date 20 Oct 2006

By Jay F. Moldovanyi
Jay F. Moldovanyi, Reg. No. 29,678
1100 Superior Avenue, Suite 700
Cleveland, OH 44114-2518
(216) 861-5582

CERTIFICATE OF MAILING

I hereby certify that the foregoing Amendment is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 20th day of October, 2006.

By Adeline Machado
Adeline Machado